

REMARKS

Claims 1-16 are all the claims pending in the application. By this amendment, Applicant cancels the withdrawn claims 5-13 without prejudice or disclaimer. Applicant further amends claim 1 to include allowable claim 14 and claim 2 is rewritten into its independent form.

I. Preliminary Matters

As preliminary matters, the Examiner has acknowledged that the drawing figures filed on August 28, 2003 have been accepted. The Examiner has also returned the initialed form PTO/SB/08 submitted with the Information Disclosure Statement filed on August 17, 2006.

II. Summary of the Office Action

Claims 1-4, 15, and 16 are rejected under obviousness type double patenting rejection and maintained prior art rejection under 35 U.S.C. § 103. Claim 14 contains allowable subject matter.

III. Prior Art Rejections

Claims 1-4, 15, and 16 are rejected under double patenting rejection and 35 U.S.C. § 103(a). Applicant respectfully traverses these grounds of rejection at least in view of the following comments.

A. Double Patenting Rejection

Referring to pages 2-4 of the Office Action, claims 1-4, 15 and 16 have been provisionally rejected on the group of statutory obviousness-type double patenting as allegedly unpatentable over claims 1-9 of copending Application No. 10/692,011 (hereinafter “the ‘011 Application”) in view of U.S. Patent No. 4,230,683 to Decker et al. (hereinafter “Decker”). .

Applicant respectfully requests that the Examiner hold in abeyance this provisional double patenting rejection.

B. Claim Rejections under 35 U.S.C. § 103

Referring to pages 4-10 of the Office Action, claims 1, 3, 15, and 16 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,846,638 to Shipwash (hereinafter “Shipwash”) in view of Decker. Applicant respectfully requests the Examiner to withdraw these grounds of rejection at least in view of the following exemplary comments.

Claim 1 has been amended to include the allowable claim 14. Accordingly, as acknowledged by the Examiner, claim 1 is allowable over the prior art of record.

Independent claim 3 recites: “at a time at which the labeled receptor or the labeled ligand having been labeled with the labeling substance is subjected to the specific binding with the ligands or the receptors, ..., a reaction liquid containing the labeled receptor or the labeled ligand, ..., is forcibly caused to flow such that the reaction liquid containing the labeled receptor or the labeled ligand flows across each of the porous adsorptive regions of the biochemical analysis unit... wherein, at a time at which the enzyme-labeled antibody is subjected to the specific binding with the labeled receptor or the labeled ligand, which has been specifically bound to at least one of the ligands or at least one of the receptors, a reaction liquid containing the enzyme-labeled antibody is forcibly caused to flow such that the reaction liquid containing the enzyme-labeled antibody flows across each of the porous adsorptive regions of the biochemical analysis unit.”

Shipwash fails to disclose or suggest forcibly flowing a reaction liquid with labeled receptor or ligand across the porous member when the labeled receptor or ligand is subject to specific binding. In other words, Shipwash does not disclose or suggest forcibly flowing different reaction liquids at two times. In Shipwash, the actual biomolecule (amino acids) flows into various reaction chambers and channels. Decker does not cure the deficient disclosure of Shipwash, as there is no forcibly flowing disclosed in Decker.

The Examiner appears to acknowledge this deficiency but alleges that claim 3 does not recite the features being argued (*see* page 15 of the Office Action). Applicant respectfully disagrees.

In claim 3, two reaction liquids are forced to flow across the porous regions of a biochemical analysis units. In particular, the first reaction liquid with labeled receptor or ligand flows at the labeling time and the second reaction liquid with enzyme-labeled antibody flows at the binding of the antibody. In short, two different reaction liquids flow at different times.

For at least these exemplary reasons, claim 3 is patentable over the combined disclosure of Shipwash and Decker. Claims 15 and 16 are patentable by virtue of their dependency on claim 3.

At pages 10-12 of the Office Action, the Examiner has maintained the rejection of claims 2 and 4 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Shipwash, in view of Decker, further in view of U.S. Patent No. 6,490,034 to Woias et al. (hereinafter “Woias”). Applicant respectfully traverses these grounds of rejection at least in view of the following exemplary comments.

Independent claim 2 *inter alia* recites: “wherein, after the reaction liquid containing the enzyme-labeled antibody has been forcibly caused to flow such that the reaction liquid flows across each of the porous adsorptive regions of the biochemical analysis unit, the forcible flowing is ceased during a period of time longer than the time during which the reaction liquid containing the enzyme-labeled antibody has been forcibly caused to flow.” The Examiner maintains that stopping the forcible flow for a period of time longer than the forcible flow is an optimum workable range (*see* page 12 of the Office Action). Applicant respectfully disagrees. Stopping the forcible flow for a period of time longer than the forcible flow allows optimum detection of the labeled receptor or the labeled ligand with a low amount of labeled receptor or the labeled ligand (pages 8, 28, and 33-36 of the specification). Accordingly, the stopping time is not simply an optimum workable range but one of many unique features of the present invention. Furthermore, although it may be obvious to stop the flow so that the reaction can take place, there is no disclosure or even remote suggestions to stop the flow for a period of time longer than the time the forcible flow takes place.

For at least these exemplary reasons, claim 2 is patentable over the combined disclosure of Shipwash, Decker, and Woias.

Claim 4 depends on claim 3. Woias does not cure the above-identified deficiencies of Shipwash and Decker. Accordingly, claim 4 is patentable at least by virtue of its dependency on claims 3.

IV. Allowable Subject Matter

Claim 14 has been indicated as containing allowable subject matter. Claim 14 has been rewritten into its independent form and is now claim 1. Accordingly, Applicant respectfully

requests the Examiner to allow claim 1. There is no acquiescence to the Examiner's reasons for allowance.

V. New Claims

In order to provide more varied protection, Applicant adds claims 17-19, which are patentable by virtue of their dependency and for additional features set forth therein.

VI. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. **If any points remain in issue, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.**

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Nataliya Dvorson/
Nataliya Dvorson
Registration No. 56,616

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

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